

CORRECTED COPY

Ordinance No.: 15-48

Zoning Text Amendment No: 05-01

Concerning: Special Exception standards
for non-resident professional offices in the
R-90 zone

Draft No. & Date: 1 – 1/18/05

Introduced: January 18, 2005

Public Hearing: March 8, 2005; 1:30 pm

Adopted: April 12, 2005

Effective: May 2, 2005

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Denis

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- allowing a nonresidential professional office by special exception in the R-90 zone; and
- making technical, stylistic, and conforming changes throughout the nonresidential office special exception section.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-1	“RESIDENTIAL ZONES, ONE-FAMILY”
Section 59-C-1.31	“Land uses”
DIVISION 59-G-1	“SPECIAL EXCEPTIONS, VARIANCES AND NONCONFORMING USES”
Section 59-G-2.38	“Offices, professional, nonresidential”

EXPLANATION:

Boldface indicates a heading or a defined term.

Underlining indicates text that is added to existing laws by the original text amendment.

~~*[Single boldface brackets]*~~ indicate text that is deleted from existing law by the original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

~~*[[Double boldface brackets]]*~~ indicate text that is deleted from the text amendment by amendment.

***** indicates existing law unaffected by the text amendment

OPINION

Zoning Text Amendment No. 05-01 was introduced on, January 18, 2005, for the purpose of allowing a nonresidential professional office by special exception in the R-90 zone; and making technical, stylistic, and conforming changes throughout the nonresidential office special exception section.

The Montgomery County Planning Board in its report to the Council recommended that the text amendment be approved as introduced.

The County Council held a public hearing on March 8, 2005, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on March 22, 2005 to review the amendment. The Committee recommended that ZTA 05-01 be approved with a revision to clarify that in considering a nonprofessional office special exception, the Board may allow for other than a building designated historic the exterior of the premises to be changed provided the residential appearance is retained. It was clarified for the Committee that a historic area work permit must be obtained before any work may be done to alter the exterior features of an historic structure.

The Committee also was interested in the number of properties that may be eligible to apply for a special exception under the ZTA. The Committee reviewed a list provided by Planning Board staff of all properties zoned R-90 and designated historic. There are four properties in the R-90 zone designated historic that have previously been used for non-residential purposes, however, there was no information as to whether any of these properties are located on a road with a 120-foot right-of-way.

The District Council reviewed Zoning Text Amendment No. 05-01 at a worksession held on April 12, 2005, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 05-01 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. Division 59-C-1 is amended as follows:

DIVISION 59-C.1. RESIDENTIAL ZONES, ONE-FAMILY.

* * *

59-C-1.31. Land uses.

	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4 plex	RMH 200
(d) Services.										
* * *										
Offices, professional, nonresidential. ⁴⁴						SE	SE			
* * *										

⁴⁴ If designated as being suitable for nonresidential profession offices [on] in an approved and adopted master or sector plan or classified in the R-90 zone and designated as historic in the Master Plan for Historic Preservation

Sec.2. Division 59-G-1 is amended as follows:

DIVISION 59-G-1. SPECIAL EXCEPTIONS, VARIANCES AND NONCONFORMING USES.

* * *

59-G-2.38. Offices, professional, nonresidential.

An existing single-family structure may be used for professional office purposes by any member or members of a recognized profession, such as a doctor[s], lawyer[s], architect[s], accountant[s], engineer[s], veterinarian[s], but not including the following:

- (a) a medical, dental or veterinarian clinic[s]
- (b) an in-patient treatment facility[ies]
- (c) a general business office[s], such as [the] [offices of] an insurance [companies] company office, a trade association[s], a manufacturing

[companies] company, an investment [concerns] company, a bank[s],
or a real estate [companies] company.

The property must be:

- (a) located in a central business district that is designated as being
suitable for the transit station-residential (TS-R) zone on an approved
and adopted sector plan; [or,]
- (b) designated as [being] suitable for a nonresidential professional
office[s] in the R-60 zone on an approved and adopted master or
sector plan and [is] located along a [major] highway with an existing
right-of-way width of [no less than] at least 90 feet or along [that] a
portion of an arterial road designated as a boundary of a [central
business district] Central Business District; or
- (c) located in the R-90 zone and:
 - (1) designated as historic in the Master Plan for Historic
Preservation;
 - (2) located along a highway with an existing right-of-way of at
least 120 feet; and
 - (3) contain a structure formerly used for nonresidential purposes.

The Board must find that the property [meets the following criteria]:

- (a) [Such use] will not constitute a nuisance because of traffic or physical
activity;
- (b) [Such use] will not affect adversely the use and development of any
adjacent [properties] property;
- (c) [A minimum of] will have at least 25 percent of the lot area [shall be]
devoted to green area[;].

49 [(d) The board may allow the exterior of the premises to be changed,
50 altered or modified provided the single-family character and the basic
51 residential appearance of the building is retained.]

52
53 The Board may allow for other than a building designated as historic in the Master
54 Plan of Historic Preservation, the exterior of the premises to be changed, altered or
55 modified provided the single-family character and the basic residential appearance
56 of the building are retained. A historic area work permit must be obtained before
57 any work may be done to alter the exterior features of an historic structure.

58
59 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
60 date of Council adoption.

61
62 This is a correct copy of Council action.

63
64 A handwritten signature in cursive script, reading "Linda M. Lauer", is written over a horizontal line.

65 Linda M. Lauer, Clerk of the Council